

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

No. 7:11-CV-83-F

SUN TRUST BANK, INC.,)
 Plaintiff,)
))
 v.)
))
SLOAN DRUMMONDS, INC.;)
WORTHMORE FINANCIAL, INC., d/b/a)
WORTHMORE PROPERTIES; BAYVIEW))
MOTORS AND COMMERCIAL TRUCKS,))
INC.; SLOAN DRUMMONDS,)
individually; and CRYSTAL)
DRUMMONDS, individually,)
 Defendants.)

O R D E R

This matter is before the court on the Joint Stipulation of Dismissal [DE-37] filed by Plaintiff SunTrust Banks, Inc., and Defendants Crystal Drummonds and Bayview Motors and Commercial Trucks, Inc. In the Joint Stipulation of Dismissal, SunTrust, Crystal Drummonds, and Bayview ask the court, pursuant to Federal Rule of Civil Procedure 41(a)(1), to issue an order dismissing the case in its entirety without prejudice.


Rule 41(a)(1) provides that “a plaintiff may file an action without a court order by filing: (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or (ii) a stipulation of dismissal signed by all parties who have appeared.” FED.R.CIV.P. 41(a)(1)(A). Accordingly, if Crystal Drummonds and Bayview are considered the only parties to have “appeared” in this action, then a court order is unnecessary.

Three other parties, however, joined in the removal of this action to this court: Sloan Drummonds, Inc., Worthmore Financial, Inc., and Sloan Drummonds, individually. *See* Notice

of Removal [DE-1]. The court has since made an entry of default as to these parties. *See* Entry of Default [DE-21]. Nevertheless, to the extent that filing of the Notice of Removal constitutes an appearance in this action, the court construes the Joint Stipulation of Dismissal as a Motion for Voluntary Dismissal under Rule 41(a)(2). The unopposed motion is ALLOWED, and this case is DISMISSED without prejudice.

SO ORDERED.

This the 11th day of May, 2012.



JAMES C. FOX
Senior United States District Judge